

MONTANA LEGISLATIVE HISTORY

Chapter 385 19 79

Bill H _____ S 394 Original bill & history ☒ C

H. Committee on Judiciary

Hearing Date(s) Mar 02 ☒ C

Mar 14 ☒ C

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Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) Feb 15 ☒ C

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Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SENATE BILL NO. 394

INTRODUCED BY STIMATZ

IN THE SENATE

February 7, 1979	Introduced and referred to Committee on Judiciary.
February 16, 1979	Committee recommend bill do pass. Report adopted.
February 17, 1979	Printed and placed on members' desks.
February 19, 1979	Second reading, do pass.
February 20, 1979	Considered correctly engrossed.
February 21, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 22, 1979	Introduced and referred to Committee on Judiciary.
March 15, 1979	Committee recommend bill be concurred in. Report adopted.
March 16, 1979	Second reading, concurred in.
March 19, 1979	Third reading, concurred in.

IN THE SENATE

March 20, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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25 (b) when the youth is over the age of 12 years and the

-End-

SB 394

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 15, 1979

The thirty-ninth meeting of the Senate Judiciary Committee was called to order in room 331 of the capitol building on the above date by Senator Everett R. Lensink at 6:56 p.m.

ROLL CALL:

All members were present, except Senator Healy, who was excused.

DISPOSITION OF SENATE BILL 357:

Senator Turnage moved that this bill be tabled. The motion carried unanimously.

DISPOSITION OF SENATE BILL 444:

Senator Van Valkenburg moved that this bill do not pass. The motion carried unanimously.

DISPOSITION OF SENATE BILL 394:

Senator Towe moved that this bill do pass. The motion carried.

DISPOSITION OF SENATE BILL 382:

Senator Towe moved to reconsider the action that was taken earlier today. The motion carried unanimously. He explained that he called the probation officer in Billings and he said that 15 days is crucial-that that is the main protection to keep a child from going to jail for a long time and this allows them to set up a continuence in a case in five days and there should be no reason why they shouldn't go to trial in twenty days. He said that sometimes this involves 8 or 9-year-old kids. Senator Towe moved that this bill do not pass.

Senator Turnage questioned what about prejudice. Senator Van Valkenburg stated that they file a petition; and then they are back in the next 15 days, and they have accomplished the same thing.

Senator Towe said that he would withdraw his motion. Senator Towe moved that on line 22, before the ",", insert "when the youth is not in custody" and further amend on line 21, by inserting "if the youth is not in custody". The motion carried unanimously.

Senator Towe moved that the bill be amended on page 1, line 19, by reinserting the words "with prejudice". The motion carried unanimously.

REPRESENTATIVE DAILY: This sounds like a prisoner relief bill, where the rich get off and the poor don't. Discussion followed among the members about whether this was so.

MR. HONZEL: I guess that is a possibility that this could be used as a plea bargaining tool but the judge has the discretion to not accept it.

There was no other discussion and the hearing closed on Senate Bill 364.

SENATE BILL NO. 355: Senator Stimatz. This bill provides for a minimum compensation for personal representatives of estates. The bill does two things. On page 1, lines 19 to 21, a personal representative is entitled to compensation. On page 3, it will make it consistent with existing law.

MIKE McGRATH: Attorney Generals office. The purpose of the bill is to insure that small estates will not be probated so that the state gets the amount of money it is entitled to.

After a short discussion the hearing closed on Senate Bill No. 355.

SENATE BILL NO. 394: Senator Stimatz. Basically all this bill does is protect the rights of a youth who is detained for investigation or questioning. This is a companion bill to 454. All 394 does is change its language to be compatible with a change in 454. In 454, on page 1, lines 12 to 22, it was not clear. It makes it necessary so that the rights of a youthful offender are clearly understood. 394 only changes the language on page one. It takes out the existing language and adds language on lines 12 through 16.

TOM HONZEL: County Attorneys. Representative Keyser had a similar bill, House Bill 464. It died in Senate Judiciary. This does the same thing but not as well as 464.

KAREN MIKOTA: Opponent, League of Women Voters. We are not opposed to 394 but we are opposed to 454.

Representative Scully asked, should we be aware of something that caused the killing of House Bill 464. Senator Stimatz answered, I was not aware of the other bill.

REPRESENTATIVE KEEDY: You may have a bill that changes the language

There was general discussion about what information should be allowed out. Also followed discussion about whether it is necessary that the governor have this information and whether the commission is balanced.

Larry Weinberg, staff attorney, explained how the commission is appointed and reviewed the law that deals with it.

The question was called and by roll call vote the motion carried, 10 yes, 7 no, with two representatives absent, be concurred in.

SENATE BILL NO. 346:

Representative Keedy moved "be not concurred in". He then said he wished to amend the bill and spoke to his amendments, talking about the definition of frivolous.

Representatives Lory, Curtiss and Kemmis spoke on the motion. Discussion followed about court costs.

Representative Lory moved to amend the title, line 7 and line 9, and line 6 after 5, to strike. He discussed this. He said he wanted to add language on line 9. On page 4, line 21, strike, "shall" and insert "may". There was discussion about the language "prevailing party in multiple causes of action". The motion carried with the vote unanimous. (cc attached) Representative Lory moved be "concurred in as amended." The motion carried with Representatives Roth, Eudaily, Teague, Pavlovich and Seifert voting "no". Representative Lory will carry, however, he will check with Representative Quilici and see if he wants to carry since he is one of the sponsors of the bill.

SENATE BILL NO. 355:

Representative Lory moved "be concurred in". The motion carried with the vote unanimous. Representative Pavlovich will carry on the floor.

SENATE BILL NO. 431:

Representative Keedy led a discussion about what the bill actually does. The motion was made "to pass for the day", and Larry Weinberg will check. The motion carried with the vote unanimous.

SENATE BILL NO. 394:

Representative Keyser moved "be concurred in". The motion carried with Representative Curtiss voting "no". No one was appointed to carry the bill, an oversight of the acting chairman.

SENATE BILL NO. 454:

Representative Keyser moved "be concurred in". The motion carried with Representative Holmes voting "no".

SENATE BILL NO. 394

INTRODUCED BY STIMATZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE EXTENSION OF CERTAIN CONSTITUTIONAL RIGHTS TO A YOUTH DETAINED FOR INVESTIGATION OR QUESTIONING UNDER THE MONTANA YOUTH COURT ACT; AMENDING SECTION 41-5-303, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-5-303, MCA, is amended to read:

"41-5-303. Rights of youth upon apprehension. When a youth ~~alleged-to-be-a-delinquent-youth-or-a-youth-in-need-of~~ supervision--is--taken--into--custody is detained for investigation or questioning upon a matter which could result in a petition alleging that the youth being detained is either delinquent or in need of supervision, the following requirements must be met:

(1) The youth shall be immediately and effectively advised of his constitutional rights and his rights under this chapter.

(2) The youth may waive such rights under the following situations:

(a) when the youth is under the age of 12 years, the parents of the youth may make an effective waiver;

(b) when the youth is over the age of 12 years and the

youth and his parents agree, they may make an effective waiver; and

(c) when the youth is over the age of 12 years and the youth and his parents do not agree, the youth may make an effective waiver only with advice of counsel."

-End-